

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THERESA MARIE SIWKA, ET AL,

Plaintiffs,

v.

SMART RECOVERY SERVICE, LLC., ET
AL,

Defendants.

Case No. 08-12152

Honorable Nancy G. Edmunds

**ORDER ACCEPTING MAGISTRATE JUDGE'S CORRECTED REPORT AND
RECOMMENDATION [142] WITH ONE CLARIFICATION**

This matter comes before the Court on the Magistrate Judge's September 1, 2010 Corrected Report and Recommendation [142]. Being fully advised in the premises, having read the pleadings, and Defendants Smart Recovery's and Anthony Benavides's Objections, the Court finds that the Magistrate Judge reached the correct conclusion in the Report and Recommendation. Accordingly, the Court hereby ACCEPTS AND ADOPTS the Magistrate Judge's Report and Recommendation and GRANTS IN PART and DENIES IN PART GMAC's motion for summary judgment on its cross-claim against Defendant Smart Recovery. GMAC's motion is DENIED as to its claim that the subject indemnification provision includes a duty to defend and is GRANTED on its claim that it is entitled to indemnification for any and all losses, including reimbursement of costs and attorney fees incurred in its defense against the claims asserted in Counts I and V of Plaintiffs' Second Amended Complaint. In response to Defendants' Objection No. 3, the Court clarifies that

GMAC is entitled to reimbursement of actual attorney fees incurred in its defense against the claims asserted in Counts I and V of Plaintiffs' Second Amended Complaint that are found to be reasonable under the prevailing Sixth Circuit standard. SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: September 17, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 17, 2010, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager